

Application No. 10/074,990
Amdt. Dated 06/01/2004
Reply to Office Action of 12/02/2003

Remarks:

Amendments to the specification and to FIG.1 have been requested to correct numbering errors. These corrections are for clarification purposes only, do not introduce new matter, and are not done for reasons relating to patentability.

35 USC §102:

Claims 1, 5, 8, 10, 24 and 41 are rejected under 35 U.S.C. §102(a) as being anticipated by U.S. Pat. No. 2,345,264 ("Jepson"). Applicants respectfully disagree with the Examiner's rejection.

Claim 1 recites an electric beverage maker that comprises:

- a lower, water boiling vessel,
 - a funnel extending into the lower vessel and having an upper compartment for receiving a beverage; and
 - an upper vessel mounted over said funnel to receive water which has passed up said funnel through said compartment, and from which the beverage is dispensed,
- characterized in that said lower vessel is formed with an opening in its lower region, *and in that opening an electric heater is mounted to close said opening thereby forming a heating base for the lower vessel.* (emphasis added)

Claims 5, 8, 10, and 24 depend from claim 1.

The electric beverage maker of claim 1 recites a lower vessel that is formed with an opening in its lower region. The opening is closed by an electric heater that is mounted within the opening. Jepson, in contrast, discloses a coffee maker that has a lower vessel 6 with a bottom wall 15 (see col. 2, lines 34 - 46). The bottom wall 15 has a peripheral edge 16 that joined by brazing to a corresponding flange 17 portion of the lower vessel 6. A heating element 22 is attached to the outer surface of the bottom wall 15 portion of the lower vessel 6. Hence, the electric heater element 22 of Jepson is outside of the lower vessel 6 and does not / cannot close an opening in the lower vessel 6 as is recited within claims 1, 5, 8, 10, and 24. The device of claim 1 provides significant advantages over the device disclosed by Jepson; e.g., ease of manufacture, maintenance, etc. For at least these reasons, applicants respectfully request the Examiner withdraw the rejection of claims 1, 5, 8, 10, and 24, and allow them to pass onto issuance.

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Amended claim 41 recites an electric beverage maker that comprises:

a liquid heating vessel;
a funnel extending into the vessel; and
an electric heater for heating liquid in the vessel;
wherein the funnel includes a first open end and a second open end,
and the second open end is smaller in cross-sectional area than the first open end; and
wherein the electric heater includes a stainless steel plate and a heating element disposed only around the periphery of the plate, and wherein the electric heater has a first portion disposed within the periphery of the plate, directly below all of the second open end of the funnel, and the first portion of the electric heater is unheated.

Amended claim 41 now recites that the electric heater includes a stainless steel plate and a heating element disposed only around the periphery of the plate. The peripherally mounted heating element surrounds a first portion of the electric heater that is located below the second open end of the funnel. Because the heating element is disposed only around the periphery of the plate, the first portion is unheated. The significance of having the region directly underneath the open end of the funnel unheated is described on page 2, lines 22 - 28 of the present specification. In contrast, the coffee maker disclosed in Jepson discloses a disc-type heating element. The Figure clearly shows the heating element extending across the entire bottom wall 15. Consequently, the electric beverage maker of amended claim 41 is not anticipated by Jepson. Accordingly, applicants respectfully request this rejection be withdrawn, and claim 41 be passed onto issuance.

35 U.S.C. §103:

Claims 2 and 3 are rejected under 35 U.S.C. §103(a) as being unpatentable over Jepson in view of WO 00/30514 ("Taylor"). Specifically, the Examiner indicates that it would have been obvious to modify the lower vessel of Jepson to plastic as taught by Taylor, in order to reduce the constructing the device. Applicants respectfully disagree.

First, applicants direct the Examiner to the remarks above. For at least the reasons provided there, applicants respectfully submit that claims 2 and 3 are not obvious over Jepson in view of Taylor.

In addition, applicants respectfully submit further that there is motivation to combine the references as suggested by the Examiner. In fact, the references themselves teach away from the combination. As stated above, Jepson discloses a coffee maker that has a lower

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vessel 6 with a bottom wall 15 (see col. 2, lines 34 - 46) disposed above the heating element 22. The bottom wall 15 has a peripheral edge 16 that is joined by brazing to a corresponding flange 17 portion of the lower vessel 6 to close the lower vessel 6. It would not be possible to braze the lower vessel of plastic to metallic bottom wall 15 to close the lower vessel 6 as is suggested by the Examiner. In addition, applicants find no basis within the cited references for the motivation to combine provided by the Examiner. The motivation appears, therefore, to be impermissible hindsight. For at least these reasons, applicants respectfully request this rejection be withdrawn, and claims 2 and 3 be passed onto issuance.

Claims 9, 11, 22, and 25 are rejected under 35 U.S.C. §103(a) as being unpatentable over Jepson in view of U.S. Patent No. 4,357,520 ("Taylor '520"). Specifically, the Examiner indicates that it would have been obvious to substitute the thermal control of Jepson with that taught by Taylor in order to manually control the operation of the heater. Applicants respectfully disagree.

With respect to claim 9, applicants first direct the Examiner to the comments above detailing the differences between Jepson and the electric beverage maker of claim 1. For at least those reasons, applicants respectfully submit that claim 9 is not obvious over Jepson in view of Taylor '520.

With respect to claims 9, 11, 22, and 25, the thermal control device of Jepson is actually a thermostat device and heater circuit that automatically controls the heat of the fluid within the vessel (col. 2, lines 20 - 33). Jepson discloses heating water without exceeding the boiling point to force the water up into the upper vessel. There is no manual reset.

Taylor '520, on the other hand, discloses an "Electric Water-Boiling Container Having Switch-on Dry and Steam Sensitive Thermally responsive Control Units". The switching device disclosed by Taylor '520 operates in two different modes. In a first mode, a first switch actuator 9 operates if the "jug" is switched on dry. (col. 4, lines 53 - 61). The absence of water in the jug causes the heater element to rapidly rise above a predetermined temperature and trip a bimetallic actuator 9 to break the electrical power to the heater. In a second mode, when water within the jug boils, steam enters a passage aligned with a second bimetallic actuator 22. The thermal energy from the steam causes the heater element to trip the bimetallic actuator 22 to break the electrical power to the heater. In both modes, the switch can be manually reset by the user pushing on a knob.

Because the Taylor '520 switch device breaks electrical power in a mode where the

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vessel is dry, or in a mode where steam is present, it is wholly unsuited to be combined with the device of Jepson as is suggested by the Examiner. Jepson discloses heating water without exceeding the boiling point to force the water up into the upper vessel. The Taylor '520 device does not operate in such a manner. Hence, the two references actually teach away from each other by functioning in completely different manners. There is, therefore, no motivation to combine the teachings of the references, and even if combined the references do not arrive at the claimed invention.

For at least these reasons, applicants respectfully request the examiner withdraw the stated rejection of claims 9, 11, 22 and 25, and allow them to pass onto issuance.

Claim 23 is rejected under 35 U.S.C. §103(a) as being unpatentable over Jepson in view of U.S. Patent No. 5,782,163 ("Chang"). Specifically, the Examiner indicates that it would be obvious to provide the device of Jepson with the indicator light of Chang.

Claim 23 depends from claim 1. Applicants respectfully direct the Examiner to the remarks above pertaining to Claim 1. For at least the reasons provided therein, applicants respectfully request the Examiner withdraw the stated rejection.

As the applicants have traversed each objection and rejection made by the Examiner, it is respectfully requested that the pending claims be allowed and the present application be passed onto allowance.

Applicants believe no other fee is due with the filing of this Response. However, if any additional fee is due, Applicants respectfully request the fees be charged to Deposit Account No. 13-0235.

Respectfully submitted,

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